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1 - After a Powerful Lobbyist Intervenes, EPA Reverses Stance on Polluting Texas County's Water, ProPublica, 3/13/13

<http://www.propublica.org/article/after-a-powerful-lobbyist-intervenes-epa-reverses-stance-on-polluting-texas>

Summary: Ranchers stand in support of an effort to stop uranium mining in Goliad County, Texas in 2007. The plan appeared to be dead on arrival until late 2011, when Uranium Energy hired lobbyist Heather Podesta. (AP Photo/The Advocate, Frank Tilley) When Uranium Energy Corp. sought permission to launch a large-scale mining project in Goliad County, Texas, it seemed as if the Environmental Protection Agency would stand in its way.

2 - Pasadena Superfund site's owner indicted, missing, Houston Chronicle, 3/10/13

<http://www.houstonchronicle.com/news/houston-texas/houston/article/Pasadena-Superfund-site-s-owner-indicted-missing-4342439.php#ixzz2NQWoOQwO>

Summary: Hazardous material abandoned at a Pasadena "oil recycling" company has put the 17-acre site on the federal Superfund list. In his own mind, perhaps, he was a recycler, a successful entrepreneur, living for a time in a five-bedroom, 7½-bath southern colonial in west Houston with an 800-bottle wine cellar. In reality, prosecutors said, he is a polluter responsible for a 17-acre disaster - hundreds of dumpsters and concrete tanks vaporizing hazardous chemicals into the air, the worst spoils of the petrochemical industry draining into Vince Bayou in Pasadena.

3 - Jindal vows to fight for buyouts for Bayou Corne residents, Fox8Live, 3/11/13

<http://www.fox8live.com/story/21577334/jindal-vows-to-fight-for-buyouts-for-bayou-corne-residents>

Summary: Seven months after a sinkhole forced the evacuation of 150 homes in swampy Assumption Parish, Gov. Bobby Jindal said Monday that he'll visit the site where nine acres of land have disintegrated into muck.

4 - ASARCO trustee says preparations under way for smoke stacks' demolition, KFOX.TV, 3/11/13

<http://www.kfoxtv.com/news/news/asarco-trustee-says-preparations-under-way-smoke-s/nWpCr/>

Summary: On April 13, the two remaining smokestacks will come falling down, despite a letter addressed to environmental regulators concerning whether enough precautions were taken with the ASARCO demolition.

5 - Inhofe co-sponsors bill to regulate storage tanks, Lawton Constitution, 3/13/13

<http://www.swoknews.com/news-top/area/item/5607-inhofe-co-sponsors-bill-to-regulate-storage-tanks>

Summary: A bill to amend EPA regulations on above ground fuel and oil storage tanks has been introduced by three U.S. senators, including Sen. Jim Inhofe, R-OK.

6 - Fracking Groundwater Rules Reflect Legal Ambiguities, Texas Tribune, 3/13/13

<http://www.texastribune.org/2013/03/13/fracking-groundwater-rules-reflect-legal-ambiguiti/>

Summary: In Karnes County, at the heart of the Eagle Ford Shale, oil and gas drillers seeking to use water for hydraulic fracturing must get a permit from the local groundwater authority. They can pump only a certain amount of water, and they must report how much they use.

7 - ExxonMobil expansion debated, BRADV, 3/13/13

<http://theadvocate.com/news/5321203-123/exxonmobil-expansion-debated>

Summary: Supporters of a proposed air permit modification at the ExxonMobil Chemical Plant on Tuesday highlighted its safety record, support for community programs and work in lowering air pollution releases.

8 - Times: EPA sought to shame states over oil and gas production, Watchdog.org, 3/12/13

<http://watchdog.org/74201/report-epa-sought-to-shame-states-over-oil-and-gas-production/>

Summary: A report released Tuesday afternoon details how one official at the Environmental Protection Agency sought to shame states over oil and gas developments. The Washington Times reveals how former EPA Region 6 chief Al Armendariz

proudly discusses with other agency officials how he's proud of his efforts to compel states to "clean up" the oil and gas sector.

9 - An Advocate in Pursuit of Environmental Justice at EPA, Yale 360, 3/13/13

http://e360.yale.edu/feature/interview_with_epa_environmental_justice_director_matthew_tejada/2627/

Summary: After five years of working with low-income and minority communities in Texas, Matthew Tejada brings on-the-ground experience to his new job as director of the Office of Environmental Justice at the U.S. Environmental Protection Agency. Tejada, 33, took over his EPA post this week after leading Air Alliance Houston, where he helped organize communities along the Texas Gulf Coast to fight air pollution from chemical plants, oil refineries, and the shipping industry.

10 - Houston among top cities for Energy Star-rated buildings, Houston Business Journal, 3/13/13

http://www.bizjournals.com/houston/morning_call/2013/03/houston-among-top-cities-for-energy.html

Summary: The "Energy Capital of the World" again ranks among the top 10 cities with the most Energy Star-certified buildings — including one that's earned the certification more than any other building in the U.S., according to the Environmental Protection Agency.

11 - Dallas-Fort Worth buildings ramp up ranking on energy saving list, BizBeatBlog, 3/13/13

<http://bizbeatblog.dallasnews.com/2013/03/dallas-fort-worth-buildings-ramp-up-ranking-on-energy-saving-list.html/>

Summary: When it comes to saving energy, Dallas-Fort Worth buildings are some of the best in the country, according to a new survey. The D-FW area ranks as the city with the eighth largest number of Energy Star certified buildings, according to a new report from the U.S. Environmental Protection Agency.

12 - EPA official: Dialogue needed between Mossville, industries, LCamerPress, 3/13/13

<http://www.americanpress.com/EPA-official-Curry-wants-to-help-Mossville-solve-long-standing-complaints>

Summary: He has only been on the job since September 2012, but EPA Region 6 Administrator Ron Curry is familiar with Mossville.

13 - Department of Health reminds it's time to schedule a water well checkup, Las Cruces, 3/12/13

http://www.lcsun-news.com/las_cruces-news/ci_22774121/department-health-reminds-its-time-schedule-water-well?IADID=Search-www.lcsun-news.com-www.lcsun-news.com

Summary: During Ground Water Awareness Week, through Saturday, the New Mexico Department of Health has joined the National Ground Water Association to remind 350,000 New Mexicans who get their drinking water from a private well that it is time to schedule an annual water well checkup.

14 - How Corralitos Landfill lines its trash facility

http://www.lcsun-news.com/dona_ana_news/ci_22773291/how-corralitos-landfill-lines-its-trash-facility?source=jBar

Summary: Before you can bring trash to a landfill, a "cell" must be developed and lined to protect groundwater from any liquids that might leak out of the trash. In 1993, an EPA mandate went into effect, that going forward, landfills must be lined before they can accept trash.

15 - Editorial: Oklahoma in a bruising battle with EPA, Oklahoman, 3/12/13

<http://newsok.com/oklahoma-in-a-bruising-battle-with-epa/article/3764823>

Summary: Were it not for a few votes here and there at selected Ohio precincts, a red state attorney general might not have been in the purple state of Colorado on Wednesday to personally argue against an Environmental Protection Agency overreach.

16 - A meeting of minds on air pollution?, Houston Chronicle, 3/12/13

<http://www.houstonchronicle.com/news/houston-texas/houston/article/A-meeting-of-minds-on-air-pollution-4346354.php#ixzz2NLUCwn81>

Summary: In August, after a court ruled in favor of Texas in its pitched fight with the Environmental Protection Agency, the state's top environmental regulator responded in a familiarly hostile fashion. Hopefully, Bryan Shaw said, the decision to strike down one of the EPA's hallmark air-quality rules would lead the agency back to "scientifically based environmental protection" and "away from an agenda based on environmental activism."

17 - Senate's \$700 Million EPA Cut At Odds With House Bid To Maintain Funds, Inside EPA, 3/13/13

<http://insideepa.com/201303122427400/EPA-Daily-News/Daily-News/senates-700-million-epa-cut-at-odds-with-house-bid-to-maintain-funds/menu-id-95.html>

Summary: Senators have introduced a continuing resolution (CR) to fund EPA and other agencies through the end of fiscal year 2013 that would cut EPA's \$8.4 billion budget by \$700 million down to \$7.7 billion, at odds with the House-passed CR that would keep the agency's existing level of funding in place through the end of FY13 in September.

18 - Supreme Court wades into bitter Texas-Okla. feud ahead of expected 'flood of litigation' , Greenwire, 3/12/13

<http://www.eenews.net/Greenwire/2013/03/12/1>

Summary: FORT WORTH, Texas -- Housing developments are all that grow these days on a parched brown landscape that sprawls out here in all directions.

19 - Stakes high as Supreme Court weighs intervention in N.M.-Texas dispute, Greenwire, 3/12/13

<http://www.eenews.net/Greenwire/2013/03/12/11>

Summary: By the time the Rio Grande reaches the New Mexico-Texas state line, it's more puddle than river. Texas blames groundwater pumping in New Mexico for the Rio Grande's sorry condition and has asked the U.S. Supreme Court to intervene and force New Mexico to send more water downstream.

After a Powerful Lobbyist Intervenes, EPA Reverses Stance on Polluting Texas County's Water

by [Abraham Lustgarten](#)

ProPublica, March 13, 2013, 6 a.m.



Ranchers stand in support of an effort to stop uranium mining in Goliad County, Texas in 2007. The plan appeared to be dead on arrival until late 2011, when Uranium Energy hired lobbyist Heather Podesta. (AP Photo/The Advocate, Frank Tilley)

When Uranium Energy Corp. sought permission to launch a large-scale mining project in Goliad County, Texas, it seemed as if the Environmental Protection Agency would stand in its way.

To get the ore out of the ground, the company needed a permit to pollute a pristine supply of underground drinking water in an area already parched by drought.

Further, EPA scientists feared that radioactive contaminants would flow from the mining site into water wells used by nearby homes. Uranium Energy said the pollution would remain contained, but resisted doing the advanced scientific testing and modeling the government asked for to prove it.

The plan appeared to be dead on arrival until late 2011, when Uranium Energy hired Heather Podesta, a lobbyist and prolific Democratic fundraiser whose pull with the Obama administration prompted The Washington Post to name her the Capitol's latest "[It girl](#) [1]."

Podesta -- the sister-in-law of John Podesta, who co-chaired President Obama's transition team -- [appealed directly](#) [2] to the EPA's second in command, Bob Perciasepe, pressing the agency's highest-level administrators to get directly involved and bring the agency's local staff in Texas back to the table to reconsider their position, according to emails obtained by ProPublica through the Freedom of Information Act.

By the end of 2012, the EPA reversed its position in Goliad, approving an exemption allowing Uranium Energy to pollute the aquifer, though in [a somewhat smaller area](#) [3] than was originally proposed.

An EPA spokesperson said companies routinely lobby the agency on regulatory issues and that Podesta's entreaties to Perciasepe, now the agency's acting administrator while Obama's nominee to head the EPA, Gina McCarthy, awaits confirmation, played no part in the agency's final decision.

"Bob's involvement was literally a part of what he does on a weekly or daily basis," the spokesperson said. "Lobbyists, etcetera, get in touch, he meets with them, he points them in the right direction."

Factors other than Podesta's efforts clearly weighed on the EPA as the Goliad case played out, including the agency's fraught relationship with Texas officials and the Obama administration's desire to demonstrate support for energy development.

Still, [documents leave little doubt](#) [2] that Podesta, described by Corporate Board Member magazine as the number one person "you need to know in Obama's Washington," kept the Goliad County issue alive when the EPA's scientific analysis seemed to doom it to failure.

Podesta did not respond to multiple messages requesting a comment. A spokesman for Uranium Energy said the company would not respond to questions.

The EPA's then-acting director for the region that includes Texas maintains the Goliad exemption, which was issued last December, was carefully considered and based on science.

But Miguel Flores, who spearheaded the EPA's Goliad review until he retired at the end of 2011, said members of his team were dissatisfied with the agency's flip-flop, especially because critical modeling on the flow of contaminants still has not been done.

"We had worked long and hard on it," Flores said of the Goliad decision. "I think there was some level of disappointment."

The net result has left some area residents feeling abandoned.

"They gerrymandered the rules in order to get the aquifer exemption approved and gave the EPA an easy out," said Ginger Cook, who lives near the mine site in Goliad County and who is a plaintiff in lawsuits [against the EPA](#) [4] and the Texas Commission on Environmental Quality. "So much for protecting the groundwater."

* * *

The Goliad County case is the [latest in a string](#) [5] of hotly contested challenges the EPA has faced in recent years as officials try to balance the drive to tap new sources of energy with the need to preserve water for future use in a changing climate.

As ProPublica [reported in December](#) [6], the agency has used a little-known provision in the federal Safe Drinking Water Act to issue more than 1,500 exemptions allowing energy and mining companies to pollute aquifers, including many in the driest parts of the country.

Sometimes, as in Goliad, the EPA has arrived at decisions that seem to run counter to the stated goals of the program, which is to issue exemptions only in cases where it can be proven beyond a doubt that the affected waters will never be used.

Sources within the EPA say the agency has been quietly reevaluating its policy on aquifer exemptions, in large part because evolving geological sciences have shifted the understanding of the risks, and advancing technology and climate change have made water sources once deemed inaccessible more likely to be needed -- and used -- in the future.

The way in which the Goliad exemption was approved raises new questions about how the EPA decides which resources to sacrifice, and whether its decision-making is subject to outside influence.

By the end of this year, [Uranium Energy will begin injecting](#) [7] an oxygen-enriched solution between 90 and 450 feet below the earth's surface into four layers of the Evangeline Aquifer. The solution will dissolve more than 5 million pounds of uranium deposits, freeing them to be sucked back out and processed for nuclear fuel. In the process, uranium, radium and other contaminants will be left floating behind in the aquifer.

The company initially submitted its plan, along with groundwater data to support its case, to the Texas Commission on Environmental Quality, which approved it in 2010.

But only the EPA has the authority to exempt an aquifer from the protections in the Safe Drinking Water Act and federal regulators had problems with the Goliad project from the start.

Most aquifer exemptions approved by the EPA are in remote locations, but Goliad County residents draw water from at least 47 wells tapping the Evangeline Aquifer near the proposed Uranium Energy mine. Several wells were within a buffer zone set out around the pollution area.

Two geologic faults sliced through the site, potentially opening a pathway through which contaminants in one zone could transfer more easily to another, or move vertically back toward the surface.

Furthermore, groundwater experts say, the entire area is part of a recharge zone for the larger Gulf Coast Aquifer, which runs along the shoreline from Louisiana to Mexico. EPA scientists worried that the water would course through the ground, carrying contaminants from the mine zone toward Goliad residents' water wells.

"I and the staff were concerned," said Al Armendariz, who, as the former regional administrator, was Flores' boss and the highest level EPA official in the regional office covering Texas, Louisiana, Arkansas, Oklahoma and New Mexico until he left the EPA last April.

In May 2012, William Honker -- who replaced Flores as the acting director of the EPA's local Water Quality Protection Division -- [asked Texas environmental officials](#) [8] to require Uranium Energy to conduct what it calls multiphase modeling of the flow of groundwater at the site, which would yield new data on the direction that contaminants would travel underground.

In [his letter to Texas regulators](#) [8], Honker also described the data provided by the mining company as insufficient to predict how contaminants would spread from the site over the long term.

"EPA believes there is a high likelihood that, following mining activities, residual waste from mining activities will not remain in the exempted area," he wrote to Zak Covar, executive director of the Texas Commission on Environmental Quality.

Mining companies try to confine contaminants by pressurizing the aquifer and forcing fluids to flow back towards the mine and away from populated areas. But records and interviews with the Nuclear Regulatory Commission, which does not directly oversee mining in Texas but licenses similar sites in other states, show that pollution commonly seeps beyond exemption boundaries at uranium mining sites.

Documents show that both Texas officials and Uranium Energy resisted doing the additional research the EPA asked for, maintaining that the evidence already presented to the agency proved that the contaminants would not affect nearby homes, and that water within the exempted area was not currently being used by residents.

With the support of Texas officials, the company also argued that the EPA had issued such exemptions in the past and was re-interpreting its own rules to thwart the Goliad exemption without justification.

In [a testy retort to Honker](#) [9], Covar accused the EPA of being "swayed by the unsubstantiated allegations and fears" of Goliad County residents.

Officials in Goliad County urged the EPA to stand firm and couldn't understand why the state wouldn't want more testing.

"This is simple hydrology. They say 'Well, in our opinion that fault is confining,'" said Art Dohmann, president of the Goliad County Groundwater Conservation District, the local agency that establishes groundwater management plans under Texas' statewide Water Development Board. "Well, we all have opinions, the pump test will tell you the facts."

With the permit process at a standstill, EPA officials say by June 2012 they had decided not to allow the mine.

“We were prepared at that point to leave the issue right where it stood,” said Sam Coleman, who temporarily took over Armendariz’s job as the EPA’s top regional official overseeing the permitting in Dallas, and is now the region’s deputy administrator. “We could not approve the exemption.”

* * *

Behind the scenes, however, Uranium Energy was pursuing another path to approval.

The company hired Podesta, whose firm eventually received \$400,000 for her services, according to lobbying records filed with the U.S. Senate.

She reached out to Perciasepe, asking him to meet with Uranium Energy’s executives because the EPA officials in Texas “[did not approve](#) [2]” the aquifer exemption, emails obtained by ProPublica under FOIA show.

Perciasepe agreed, and met with company executives in December 2011.

“We greatly appreciate your assistance to bring Region 6 and UEC to the table to work through these issues,” [Podesta wrote](#) [2] in early 2012.

When EPA officials in Texas began to push Uranium Energy to do more modeling, Podesta complained to Perciasepe.

“Region 6 keeps changing the standards,” [she wrote](#) [2] in a Feb. 2, 2012 email.

“I’m looking into it,” [Perciasepe replied](#) [2], a day later.

There is no indication that Perciasepe acted unethically in working with Podesta, but her involvement appears to have raised Uranium Energy’s exemption request from a small-time regional concern to one that had the attention of the EPA’s top staffers in Washington.

She wrote Perciasepe [more than 25 times](#) [2] over an 11-month period, requesting meetings and phone calls, and at least once interrupting Perciasepe’s weekend.

“Hiking. Will call later,” Perciasepe wrote.

Podesta often struck an informal tone, sending emails with subject lines such as “are we having fun yet?” and “rumors...sigh.”

In May, Podesta and her husband Tony, also an influential lobbyist, invited Perciasepe to their home for “a gathering of friends from the worlds of art and politics.” (It was reported earlier this year that the Podestas have since separated.)

The EPA says such lobbying is routine – not only by energy companies, but by environmental groups -- and that part of Perciasepe’s job is to listen to all sides and facilitate a conversation. Even environmental advocates say they view this as a legitimate part of the rulemaking process.

At first, the pressure brought by Podesta didn’t appear to have much of an effect.

In mid-2012, EPA staffers in Texas were still resolved to deny Uranium Energy’s permit. Honker and others pushed the company and state regulators [for additional scientific study](#). [10]

In an email to Perciasepe, Podesta wrote that Uranium Energy was “frustrated” by the lack of clear direction and warned that Texas regulators might be considering a lawsuit against the agency because of the delay in granting approval. She urged him to bring the parties back to the table.

By early summer the sides began to [discuss a compromise](#) [11]. [Uranium Energy would provide some additional scientific data](#) [12] to the agency and it would shrink the size and depth of the part of the Evangeline Aquifer that it proposed to pollute, but it would not have to do the detailed analysis the EPA had wanted. The area exempted would be about 27 percent smaller, allowing a bigger buffer between the mine site and the homes drawing water from the aquifer.

Some of the testing data previously submitted by Uranium Energy showed that underground contaminants would flow south east from the mine site, towards homes in Goliad County. Under the compromise, the EPA allowed the company to exclude this data as “anomalous”; the remaining data showed contaminants would flow east, narrowly missing the homes.

In July, Podesta wrote to Perciasepe that “the progress made over the last few weeks would not have been possible without all of the time and effort you and your office have put into this project.”

The residents of Goliad County sensed a shift in momentum. Dohmann pressed EPA staffers for an update. “We’re no longer in the loop,” he recalled them saying. “The decision has gone upstairs, and we don’t have any idea what’s going on.”

When Goliad residents asked in August to attend a meeting between the EPA, Texas officials and Uranium Energy, Podesta wrote to Perciasepe that “we think it is odd to include the Groundwater District in the meeting.”

Dohmann did meet with EPA officials that August in Dallas, but he found Coleman evasive and said the agency spent very little time reviewing the groundwater test data the Groundwater District had provided them.

“We could just tell that we were going through the motions, and that it had moved from a technical evaluation to a political decision,” Dohmann said.

In interviews, Coleman and other EPA officials firmly rejected the notion that politics ever trumped science in considering the exemption. The revisions to Uranium Energy’s plan reduced the risk to Goliad’s water, making further modeling “not necessary,” Coleman said.

In response to questions from ProPublica, Coleman sent a six-page document laying out how the scientific review process had quieted the EPA’s original concerns.

But several experts who reviewed the document said it raised additional questions.

As one part of the review process, Uranium Energy conducted a so-called pump test to see if contaminants could migrate vertically between geologic layers or through the more than 1,000 old test wells that dotted the landscape.

The results were negative, but it’s typical to run larger numbers of tests rather than just one, said Mark Williams, a hydrologist at the University of Colorado at Boulder. “Probably more problematic is whether a singletest is representative of the problem at hand,” he said.

The document summarizing the EPA’s review also cited Uranium Energy’s data on the underground flow of contaminants, minus the “anomalous” data it had allowed the company to throw out.

But Dohmann said data collected by his agency was consistent with the discarded data, showing that groundwater at the mine site could move in several directions.

When sent a detailed list of additional questions to clarify the data and scientific basis for their decision, the EPA deferred to the Department of Justice, which declined to comment because of the pending litigation.

The Texas Commission on Environmental Quality, after soliciting and receiving detailed questions from ProPublica, also declined to explain the scientific rationale for their approval, citing a pending lawsuit by Goliad residents against the agency.

On Dec. 4, [the EPA issued the aquifer exemption](#) [13] to Uranium Energy. Days later, Podesta sent an appreciative email to Perciasepe.

“Thanks again for your leadership,” she wrote. “We greatly appreciate all the time you invested in this project and hope it is the start of a closer working relationship between the industry and the agency.”

Pasadena Superfund site's owner indicted, missing, Houston Chronicle, 3/10/13

Pasadena Superfund site's owner indicted, missing



Mayra Beltran, Staff

Hazardous material abandoned at a Pasadena "oil recycling" company has put the 17-acre site on the federal Superfund list.

By Ingrid Lobet

March 10, 2013

In his own mind, perhaps, he was a recycler, a successful entrepreneur, living for a time in a five-bedroom, 7½-bath southern colonial in west Houston with an 800-bottle wine cellar.

In reality, prosecutors said, he is a polluter responsible for a 17-acre disaster - hundreds of dumpsters and concrete tanks vaporizing hazardous chemicals into the air, the worst spoils of the petrochemical industry draining into Vince Bayou in Pasadena.

Three weeks ago, a Harris County grand jury indicted Klaus Genssler, 56, on six felony counts, five for storing and one for releasing benzene. Warrants are out for his arrest; bail has been set at \$6 million.

Toxic spot: [See the 17-acre site that is polluting parts of Pasadena](#)

But Genssler, whose companies have been fighting county attorneys on civil charges of pollution for years, is gone. Two years ago, he sold his home. Prosecutors now consider him a fugitive. According to one, his last known location was Turkey.

"This is one of the worst cases I've seen in my three decades here," said Rock Owens, chief environmental prosecutor in the Harris County Attorney's Office.

Late last year, the federal government added the land where Genssler ran his businesses to the National Priorities List, which is reserved for Environmental Protection Agency Superfund sites that are of the highest concern.

Genssler, born in Germany, operated a company called U.S. Oil Recovery. He would accept hazardous waste from his industrial clients, collect a fee, then spin out still-valuable hydrocarbons in centrifuges and sell it.

The dregs of his own production were supposed to be delivered to a licensed hazardous waste disposal facility. But instead, prosecutors say, both his raw and spent material rapidly built up at the site.



Mayra Beltran, Staff

Klaus Genssler, 56, has been indicted on six felony counts in connection with the Pasadena company he ran, but the businessman, whose bail is set at \$6 million, has skipped town. To store the waste, Genssler bought a huge tank from a company that later sued him for nonpayment. He rented hundreds more containers from companies that provide industrial storage to the oil, gas and petrochemicals industries.

The company increased its acreage and gained access to more huge holding vessels when it purchased the old Pasadena sewage treatment plant nearby.

"There were what you have at a wastewater treatment plant - settling ponds, storage tanks made of concrete, leaky concrete - and he filled all these up with hazardous waste," said Owens. Vince Bayou runs through this second property.

Harris County Pollution Control investigators began visiting the site in 2009, summoned by complaints.

Investigators found the air at the facility unbreathable, according to court documents. They also discovered numerous containers leaking hazardous materials onto the ground and into the bayou.

Injunction ignored

County Attorney Vince Ryan sued Genssler in 2009, amending the case 10 times and ultimately getting an injunction in early 2010 against new deliveries of hazardous material and an order to begin disposal of all that was on the site.

But none of this seemed to change activities at the site, attorneys allege, so in the summer of 2010 the county asked the Environmental Protection Agency to step in.

Adam Adams, the EPA's on-scene coordinator, said the agency had to sort the hundreds of roll-offs, drums and tanks at the site.

"We segregated them into flammables, corrosive acids, corrosive bases, and nonflammable noncorrosives," Adams explained.

Agency contractors took away hundreds of thousands of gallons of poisonous material that overflowed each time it rained.

The agency analyzed the material it sent off site, but Adams conceded that 21 1/2 years after the EPA first became involved, it has classified only broadly what is in the hundreds of remaining containers, many of them covered with only tarpaulins. It hasn't tested them.

"We didn't want to spend a lot of money doing a detailed assessment," Adams said.

Deadly brew

What analysis was done found high concentrations of benzene, trichloroethylene, acetone, toluene, ethylbenzene and xylenes.

Other substances, including mercury, arsenic, barium, cobalt, manganese, silver, vanadium, bis(2-ethyl)hexyl phthalate and naphthalene, also were detected.

Benzene on the site is ubiquitous.

"We have this field of boxes out there that are just full of benzene," Owens said.

Benzene is known to cause cancer, specifically leukemia. More recent research has shown that at lower doses than previously suspected, it can suppress the body's production of white blood cells, affecting the immune system.

The odor on site at 200 and 400 North Richey can be powerful, even in the cool of winter, migrating from the nostrils into mild headache. When agency personnel were at the site last June, they measured high concentrations of chemicals steaming through a rip in one of the tarps.

They also noticed numerous signs that people are getting inside the fence. A tall tank with broken concrete walls has been painted more than once, and then re-tagged by graffiti painters. EPA documents say chairs have been found set up outside and that "evidence of food and water consumption included a package of paper napkins and plates." The lab at the facility has been vandalized.

The EPA also noted people were taking fish from Vince Bayou "for human consumption."

Civil case now criminal

Last May, Genssler and his companies agreed to a judgment of \$3.5 million after being sued by Harris County and the state of Texas.

Last September, the EPA added the site to its National Priorities List.

Now the Harris County District Attorney's Office has moved its efforts into a criminal phase.

Possibly in Florida

Attorney Larry Rothenberg, who represents Genssler, said last week that he is not sure where his client is.

"He travels," Rothenberg said. "I don't consider him a fugitive."

Internet records indicate that a Klaus Genssler who once had addresses in Pasadena and Houston now has one in Palm City, Fla. A call placed to that number was not returned.

Genssler also has been associated with waste oil recovery operations at a refinery in Willemstad, on the Caribbean island of Curaçao off the coast of Venezuela. Workers there have complained about unsafe working conditions.

In 2008, inspectors with the Occupational Safety and Health Administration acted on a complaint they received and visited the Pasadena site. They documented 27 violations, including people working without breathing protection.

Read more: <http://www.houstonchronicle.com/news/houston-texas/houston/article/Pasadena-Superfund-site-s-owner-indicted-missing-4342439.php#ixzz2NQXDvzbL>

Jindal vows to fight for buyouts for Bayou Corne residents, Fox8Live, 3/11/13

Updated: Mar 11, 2013 5:38 PM CDT



AP Photo

MELINDA DESLATTE
Associated Press

BATON ROUGE, La. (AP) - Seven months after a sinkhole forced the evacuation of 150 homes in swampy Assumption Parish, Gov. Bobby Jindal said Monday that he'll visit the site where nine acres of land have disintegrated into muck.

Jindal said he'll head to the sinkhole site next week. The announcement comes after residents displaced since early August criticized the governor's absence and after local media highlighted Jindal's refusal to say whether he'd check out the state's response efforts in person.

In a new hands-on approach, Jindal visited at the governor's mansion Monday with Assumption Parish leaders and state lawmakers from the area to discuss the work to stabilize the site. They also discussed concerns about the threat of a new sinkhole developing in the area.

Scientists say the sinkhole formed after the failure of an underground salt cavern operated by a Houston-based firm, Texas Brine Co. LLC, which extracted brine and piped it to nearby petrochemical facilities. The cavern failure released oil and natural gas from formations along the salt dome face.

Jindal said he's meeting Wednesday with officials from the company to push for buyouts for the evacuated families.

"It's time for Texas Brine to step up and do the right thing for the people in Bayou Corne," Jindal said in a statement.

The sinkhole opened up in August near a community along Bayou Corne, a sparsely populated area of swampland about 40 miles south of Baton Rouge.

Officials issued an evacuation order to about 350 people living in the area that has remained in effect for more than seven months, with no immediate end in sight.

Jindal had repeatedly said he's received regular updates from his agency chiefs about the state's ongoing response efforts to the sinkhole.

But the governor - considered a potential 2016 presidential candidate - hadn't made the hour-long trip to see the damage and meet with residents, even as he traveled the nation for Republican campaigns, fundraisers and speeches.

A spokesman didn't immediately respond Monday to a question about why the governor waited so long to visit the sinkhole site.

No buyouts have been offered to Bayou Corne residents so far, with Texas Brine officials saying they are focused on immediate response efforts. Some residents have filed lawsuits against the company.

Bruce Martin, vice president of operations for Texas Brine, told lawmakers recently that the company expects to have the site fully contained by April.

But worries have arisen about another nearby cavern owned by Texas Brine that is closer to the edge of the salt dome than originally thought. Jindal said state agency leaders have drawn up a response plan in case it's needed.

"According to the Department of Natural Resources, there are no data at this time to suggest a failure is occurring or that a failure is imminent. But, we are not taking anything for granted," the governor said.

The natural resources department is running tests on the second Texas Brine cavern to determine its risk of collapse, and Jindal said the agency will have more data by the end of April about the cavern's structural integrity.

The second cavern is close to a main highway running through the parish. Jindal's office said the transportation department has come up with detour plans if the road is threatened and would consider rerouting and rebuilding the highway further north if needed.

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Posted: 1:14 p.m. Monday, March 11, 2013, KFOX.TV

ASARCO trustee says preparations under way for smoke stacks' demolition



By [Jamel E. Valencia](#)

EL PASO, Texas —

On April 13, the two remaining smokestacks will come falling down, despite a letter addressed to environmental regulators concerning whether enough precautions were taken with the ASARCO demolition.

On Friday, our news partner, the El Paso Times, reported that U.S. Rep. Beto O'Rourke, state Sen. Jose Rodriguez and state Rep. Marisa Marquez planned on signing the letter to be sent to Bryan W. Shaw, chairman of the Texas Commission on Environmental Quality.

In an interview with ASARCO trustee, Robert Puga Monday, he was surprised to hear that local and federal elected officials were raising questions.

"I'm not sure why anyone would think that the site has not been characterized correctly." "This last Friday was the first time that any of them have expressed the type of concern they expressed in that letter"

According to Puga, those officials have been educated.

Puga said he and his team have taking precautionary measures when the stacks come falling down. A cushioning layer will be laid out to soften the impact of the fall. Berms will be set up around the fall zones so that dust and debris can be controlled. A misting system will be in place so that dust is captured and contained.

"We are going above and beyond what is normally done in a demolition like this one," said Puga. "We are going full steam ahead with our preparations for that date (April 13)."

A time for the demolition has not been announced.

KFOX14 will live stream the event on KFOXTV.com on its desktop and mobile site.



THE LAWTON CONSTITUTION

Your source for information in Southwest Oklahoma

Inhofe co-sponsors bill to regulate storage tanks

- Written by Staff

- Wednesday, 13 March 2013 01:28

A bill to amend EPA regulations on above ground fuel and oil storage tanks has been introduced by three U.S. senators, including Sen. Jim Inhofe, R-OK.

The major focus of the amendment to the spill prevention, control, and countermeasure rule exempts farmers from EPA rules intended for oil and gas refineries. The exemption would apply to farmers who have total fuel storage capacity not exceeding 42,000 gallons with no individual tank to exceed 10,000 gallons, according to the Oklahoma Farm Bureau.

Fracking Groundwater Rules Reflect Legal Ambiguities

- by [Kate Galbraith](#)
- March 13, 2013



photo by: Tamir Kalifa

In Karnes County, at the heart of the Eagle Ford Shale, oil and gas drillers seeking to use water for hydraulic fracturing must get a permit from the local groundwater authority. They can pump only a certain amount of water, and they must report how much they use.

In Dimmit County, another Eagle Ford Shale drilling hotbed, drillers can pump as much water as they want — and no permit is required.

This tale of two counties reflects the ambiguity in state rules regarding groundwater for fracking. Texas' water code was written well before the spread of fracking, which involves sending millions of gallons of water (along with sand and chemicals) down a well to rupture hard rock that contains oil or gas. As a result, some groundwater authorities require companies using water for fracking to obtain a permit, while others do not. The groundwater groups want legislators to clarify the regulations so that they can understand the amount of water being pumped from aquifers in their area for fracking, and potentially put limits on the volumes being pumped.

Interpretation of the law “depends on which lawyer you talk to,” said Slate Williams, general manager of the Crockett County Groundwater Conservation District in West Texas. His district does not require a permit for water wells used for fracking. It does ask drillers to report the amount of water they withdraw monthly.

“They don’t always do that, but it’s something we ask,” Williams said.

The confusion among groundwater districts stems from a [provision in the Texas water code](#) that states that a groundwater district cannot require a permit if the well is drilled to supply water for a rig doing “drilling or exploration operations” for an oil or gas well.

Traditionally, “drilling or exploration” has meant processes like mixing water with clay and other materials to make mud that makes it easier to drill. But the question that groundwater districts are struggling with is this: Is fracking considered “drilling or exploration”? Or does fracking count as oil and gas “production,” in which case the groundwater districts can require a permit?

Groundwater permits can stipulate limits on the amount of water pumped, and limits on the time frame within which a water well may be used. Large farmers and cities must get permits to use groundwater. The use of water for petroleum drilling and exploration is one of three explicit exemptions to the permitting requirement. (The other two are surface mining, and homesteads of more than 10 acres that need a modest amount of water for home use and livestock.)

Several bills filed in the Legislature this session seek to resolve the confusion, which has become more pressing as [water use for fracking has soared](#). It more than doubled between 2008 and 2011. In 2011, fracking still accounted for less than 1 percent of the state's overall water usage, a widely cited study says. But in some rural areas like Dimmit County, the percentage of water going to fracking has reached the double digits

[Senate Bill 873](#), by state Sen. [Glenn Hegar](#), R-Katy, would prevent groundwater districts from exempting from the permitting process water wells that are used for fracking. Under the bill, Texas' 97 groundwater conservation districts would have to issue permits for water withdrawals related to fracking operations.

[House Bill 3317](#), filed Friday by state Rep. [James Keffer](#), R-Eastland, chairman of the House Energy Resources Committee, takes another route. It would exempt fracking-related water wells from permitting. However, it would require those water well operators to comply with other requirements established by the groundwater district, such as limits on how much water can be pumped. It would also require the well operators to report how much water is being used. [SB 1749](#), by state Sen. [Carlos Uresti](#), D-San Antonio, mirrors Keffer's bill.

Deb Hastings, executive vice president of the Texas Oil and Gas Association, said that in her view, water wells are exempt from groundwater districts' permitting requirements, and that any legislative changes should not result in closing the exemption. TXOGA supports Keffer's bill, she said in a statement, but it does not support Hegar's bill.

Stacey Steinbach, executive director of the Texas Alliance of Groundwater Districts, said in an email that her group's legislative committee "supports Hegar's bill and has not yet discussed the other bills."

Meanwhile, confusion continues over fracking-related water policies among different groundwater districts. Some counties require permits, and others require information but not permits. McMullen County, for example, does not require a permit for water-related fracking, but it does require registering the water well and reporting on the amount of water used, according to Lonnie Stewart, manager of the McMullen County Groundwater Conservation District. The district is in the Eagle Ford Shale.

The Evergreen Underground Water Conservation District, which covers Atascosa, Frio, Wilson and Karnes counties in the Eagle Ford Shale area, has an especially strict permitting program, water experts say. The district allows companies to pump a finite amount — two acre-feet of water per acre of land per year, said Russell Labus, a field technician with the district. It also requires them to provide monthly pumping reports.

Other districts have proceeded more cautiously when it comes to regulation. "We've been under the impression that the [water for fracking] is exempt" from permitting, said Bay Laxon,

secretary of the Wintergarden Groundwater Conservation District, a South Texas district that includes Dimmit County. The district requires companies to register fracking water wells, which tells the district the location of the wells. The district does not require them to report their water use, Laxon said, though some companies, including Anadarko Petroleum Corp, do anyway.

Like some other districts, Wintergarden is evaluating whether it can tighten its permitting rules, as the amount of water used for fracking continues to increase. Danny Krienke, a board member of the North Plains Groundwater Conservation District in the Panhandle, said in an [interview](#) last month that his district was also considering tightening rules for fracking-related water use.

Even if legislators give them more explicit authority over water wells used for fracking, groundwater districts will still be powerless when it comes to a different type of fracking-related water well — disposal wells. These wells are where water left over from the fracking process gets dumped, along with chemicals and minerals in the water. Disposal wells get drilled thousands of feet in the earth. They are regulated by the Texas Railroad Commission, which oversees the drilling industry.

Disposal wells are among the most controversial aspects of the fracking process, because many people living near them dislike the heavy traffic from water trucks, and they fear that contaminated water will spread. Williams, of the Crockett County Groundwater Conservation District, said that salty water injected into a disposal well has on occasion spurted back up out of a decades-old abandoned well nearby.

ExxonMobil expansion debated



Advocate staff photo by ADAM LAUAnna Hrybyk of the Louisiana Bucket Brigade holds up a photo showing corroded pipes at ExxonMobil's Chemical Plant while speaking in opposition Tuesday to a proposed Exxon expansion during a permit hearing at the Louisiana Department of Environmental Quality building.

by amy wold

Advocate staff writer

Supporters of a proposed air permit modification at the ExxonMobil Chemical Plant on Tuesday highlighted its safety record, support for community programs and work in lowering air pollution releases.

Opponents countered that the plant has a questionable safety record and the expansion would add pollution and could affect ozone pollution.

The public testimony at a Louisiana Department of Environmental Quality hearing concerned a request to modify the air permit for the Aromatics Production Unit at the plant in which the facility plans to increase the production of toluene and benzene by 20 percent.

About 50 people attended the hearing.

Although the proposed permit calls for the increase of some air pollution such as particulate matter, sulfur dioxide and carbon monoxide, it would include some decreases in toxic air pollutants such as styrene, toluene and ethyl benzene.

Specifically, the requested permit modification includes upgrades to pumps and pipe additions and modifications, resizing of control valves for more production and increasing the firing rate for a furnace.

Gerard Forde, intermediates and aromatics process department head with ExxonMobil Chemical Plant, said the request would increase the plant's efficiency and production capability.

Forde said this unit is one of the most heavily regulated units and that the safety of workers and contractors is critical to the company. "My key goal is to make sure my folks go home the way they came," he said.

While some area residents expressed their support for the permit request and praised ExxonMobil for its work, safety record and community support, others said they had concerns and oppose any expansion until concerns at the facility are addressed.

"To my mind, what's coming out of that plant is not fit for human consumption," said Kendall King, who lives within two miles of the facility. "From what I experience almost on a daily basis, it's not clean air."

Betty Burden, who also lives within two miles of the plant, is an employee of ExxonMobil. She participated in the community dialogue group with ExxonMobil and praised the company for communicating with residents and for its focus on safety.

Other supporters of the permit included representatives from churches and faith-based organizations that have received support from the company and business organization speakers who talked about the jobs and the aid to the economy that come from ExxonMobil.

But environmental groups and other community members expressed their concern about what an expansion of producing capacity could mean.

The Louisiana Environmental Action Network submitted comments that raised concerns about the amount of nitrogen oxide and volatile organic compounds. These compounds are the precursor to the formation of ozone pollution, which forms when these pollutants mix in the air during hot, sunny weather. When

there is little wind, ozone can build up in the air and cause breathing and other health problems.

The five-parish Baton Rouge doesn't meet a more stringent standard and is classified as "marginal" by U.S. Environmental Protection Agency. This classification gives the five-parish area three years from the setting of the new standard to meet the standard.

In addition, Louisiana Environmental Action Network Executive Director Marylee Orr's submitted comments that raised questions about the possibility of larger benzene releases if the proposed permit is allowed.

The comments pointed out a June 14 incident when 28,688 pounds of benzene were released at the plant.

Anna Hrybyk, program manager with the Louisiana Bucket Brigade, said she feels that "the permit is missing critical details." The organization's main concerns are about safety, meeting the federal ozone standard and more monitoring being included in the permit, she said.

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Times: EPA sought to shame states over oil and gas production

Posted By [Dustin Hurst](#) On March 12, 2013 @ 5:07 pm



[1]

BAD STATES: One EPA official says he has shamed states into cleaning up the oil and gas sector.

By Dustin Hurst | Watchdog.org

IDAHO FALLS, Idaho –A report released Tuesday afternoon details how one official at the Environmental Protection Agency sought to shame states over oil and gas developments.

The **Washington Times** reveals how former EPA Region 6 chief **Al Armendariz** proudly discusses with other agency officials how he's proud of his efforts to compel states to "clean up" the oil and gas sector.

Here's [the scoop from the Times](#) ^[2]:

In a letter to Ms. McCarthy on Tuesday, Sen. **David**

Vitter of Louisiana and four Republican colleagues asked her to explain her connections to Al Armendariz, who resigned last year as EPA's Region 6 administrator after saying he wanted to "crucify" oil and gas companies he believed were violating the law.

Mr. Vitter also released some of Mr. Armendariz's emails, obtained in a broader investigation of EPA emails, and released several portions Tuesday showing Mr. Armendariz was pleased with new rules and restrictions EPA was pursuing on power generation.

"We have set things in motion, including empowering and shaming the states, to clean up the oil/gas sector," Mr. Armendariz said in the email. "Further progress is inevitable. I am extremely proud of the work that we have done collectively. Gina's new air rules will soon be the icing on the cake, on an issue I worked on years before my current job."

The "Gina" referred to is apparently Ms. McCarthy, the new EPA administrator nominee.

The revelation will only add to the suspicion some feel toward the EPA.

The report may also add new insight into the case of **Alaska's** not-yet-proposed **Pebble Mine**. In a remote and desolate portion of Alaska, a mining company has spent years conducting environmental research in preparation for proposing a massive gold and copper mine. Ahead of the permitting process, the EPA conducted a first-of-its-kind environmental assessment of the area where the miners might dig for minerals.

The study came back resoundingly negative, though peer reviewers skewered the document for a lack of purpose and failure to adhere to scientific standards. [Read about the unusual move on the EPA's part here.](#) ^[3]

Contact: Dustin@Watchdog.org or [@DustinHurst](#) via Twitter.

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[1] Image: http://watchdog.org/wp-content/blogs.dir/1/files/2013/03/2012-07-30_14-11-07_778.jpg

[2] the scoop from the Times:

<http://www.washingtontimes.com/news/2013/mar/12/epa-email-goal-was-shaming-states/#ixzz2NMZw0wLK>

[3] Read about the unusual move on the EPA's part here.: <http://watchdog.org/71753/in-alaskas-bristol-bay-its-the-epa-vs-science/>

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INTERVIEW

An Advocate in Pursuit of Environmental Justice at EPA

Matthew Tejada is taking over the EPA's Office of Environmental Justice after helping low-income communities in Houston fight air pollution in their neighborhoods. He talks to Yale Environment 360 about how his work in Texas prepared him for the challenges of his new post.

BY BEN GOLDFARB

After five years of working with low-income and minority communities in Texas, Matthew Tejada brings on-the-ground experience to his new job as director of the Office of Environmental Justice at the U.S. Environmental Protection Agency. Tejada, 33, took over his EPA post this week after leading Air Alliance Houston, where he helped organize communities along the Texas Gulf Coast to fight air pollution from chemical plants, oil refineries, and the shipping industry.

In an interview with *Yale Environment 360* contributor Ben Goldfarb, Tejada explained how he sees his role at the EPA as an advocate for environmental justice, a concept that first emerged in the 1980s and focuses on the pollution burdens often placed on poor and minority neighborhoods. Tejada, who credits former EPA administrator Lisa Jackson with making this issue a priority, talked about why he thinks his work as a community advocate in Houston will help in his new job, why it is important for environmental organizations to build coalitions with grassroots groups, and how he sees “similarities across environmental justice communities, whether they’re in Puerto Rico or in Kansas.”



Matthew Tejada

“I want to get more help to these communities,” Tejada said, “to make sure that whatever we can do, it’s being done.”

Yale Environment 360: You’ve said that your job as director of the EPA’s environmental justice office will be to make sure that environmental justice had a chair in government decision-making. It almost sounds like you’re going to be an activist within the EPA.

Matthew Tejada: No, I wouldn’t characterize that as accurate at all. This job is about making sure that environmental justice is considered in every part of the EPA and also reaching out to other agencies — for instance, at the Department of Transportation, or at HUD [the Department of Housing and Urban Development] — to make sure that they understand what environmental justice is and when it should be a consideration. It’s about reaching across agency lines and working with other folks in the government to make sure that we’re giving environmental justice its proper consideration.

e360: When you go across agency lines, as you just described, how would you go about explaining to them what environmental justice is?

Tejada: Well, that’s actually something that [former EPA Administrator] Lisa Jackson and folks in her administration have been doing for the past four years. One of the very positive things that EPA has been working on is holding environmental justice interagency working groups, with over a dozen federal agencies. It’s a monthly meeting, with fairly high-level officials from all of these different agencies getting together to discuss environmental justice issues, and just understanding better what environmental justice means.

Last summer, I accompanied some of my colleagues [from community groups] from the West Coast and New Jersey to one of those meetings, to sit in a room with officials from over a dozen agencies and talk about the impact of goods movement on environmental justice. That’s a new impact that folks haven’t been considering much yet, but we need to show folks what these environmental justice impacts are. We need to connect them to communities and make sure communities have a voice and are being heard by people in government.

e360: What are some of the primary environmental justice concerns related to the movement of goods? Is it particulate matter produced by fuel emissions?

Tejada: That’s a huge part of it. There are large minority communities and low socioeconomic levels in many port areas — they’re next to

refineries or chemical plants or energy facilities or waste sites. Ports around the United States are expanding as our trade continues to develop.

And that will continue to bring increasing, or in some cases completely new, threats to those communities — whether they be new types of

This job is about making sure that environmental justice is considered in every part of the EPA.”

commodities that are going to be exported and imported, or just an overall increase in the number of locomotives and trucks and diesel particulate matter. In many cases, those additional threats are facing communities that are already

experiencing many threats. We need to make sure that people understand that there are environmental justice communities in these vicinities. And we need to be very thoughtful about not increasing the burden on these communities.

e360: How do you go about identifying communities where environmental justice is particularly a concern?

Tejada: Over the past couple of years, the EPA has already been developing an environmental justice mapping tool that looks for the classic definitions of environmental justice, that can be used to look for communities around the United States that can be defined as environmental justice communities.

e360: What makes an environmental justice community?

Tejada: Well, there's the academic, sociological definition: a community with a minority population of a lower socioeconomic level that has been surrounded and impacted by dangerous or dirty facilities, processes, dumps, whatever. In general, these are typically communities that need the most help, but receive the least. I want to get more help to these communities, to make sure that whatever we can do, it's being done.

e360: Why do you think you were hired to be director of the EPA's environmental justice office?

Tejada: The biggest thing is that I've been out in the community for the last five-and-a-half years, working with environmental justice communities and acting as a partner to those communities, and seeing it from the side of folks who live in environmental justice communities. That's not to say that I'm truly an environmental justice community member — I'll never be able to fully appreciate what it means to be an EJ community member. But I've been working with them to try to alleviate their issues. I think that brings a unique and valuable perspective to the agency.

e360: When you're representing a locally-based advocacy group like Air Alliance Houston, it might be easier to be responsive to the needs of communities than it is when you're at a large government agency. Working through the EPA might confer some different challenges.

Tejada: Absolutely. I'm going to be interacting with communities on these issues from a different perspective. But at EPA, I'll have different tools and different ways to positively effect change for these communities. And of course, I'll be looking at communities across the United States, rather than just the Texas Gulf Coast.

e360: You mentioned that you have experience with incorporating many different perspectives into a holistic understanding of environmental justice problems. Can you explain how you've done that as the director of Air Alliance Houston?

Tejada: We've been working in one particular environmental justice community in the Houston area, called Galena Park, for the last two or three years. Our interest in Galena Park is that it has some really poor air quality — both from toxics from major point sources, and from diesel particulate matter from trucks and ships in the shipping channel. They're facing many different air quality threats.

But aside from that, they have a lot of other issues: lack of access to health care, lack of access to healthy foods, a lack of transportation and transit options. There are so many issues affecting that community. And Air Alliance Houston cannot expect to go into that

Whatever you're advocating for, you have to start with that grassroots foundation.”

community and find partners and build a coalition if all we want to do is talk about the air quality issue. So we talk about the air quality issue, and we do a lot of programs related to air quality — but we also try to help them with their access to

health care, we try to find someone to bring in healthier food options. We've been working with Metro, our transit operator in the Houston region, to figure out a better way to get them more bus options to get them in and out of the community.

To me, that's one of the really exciting and interesting things about environmental justice: It really is a nexus of so many different issues. There are so many things that impact environmental justice communities, and there are so many factors that have to be understood and accounted for when dealing with environmental justice communities... The most important thing, at the end of the day, is that you're actually making people's lives better.

e360: Where do you start your assessment when you go into a community?

Tejada: Well, from the nonprofit side, the most important thing, the starting point for anything we want to do has to be grassroots outreach. Whatever you're advocating for — whether it's climate change or [controlling] industrial toxics or improved diesel engines or anything else — you have to start with that grassroots foundation. And that's something that a lot of the big [environmental] organizations are starting to realize. It's been a major reason why some things haven't been successful over the last five or ten years, why the environmental community has lost on some really big issues. We didn't put the time or the resources or the effort into building a true grassroots foundation for our advocacy platform.

e360: There was that recent Harvard paper by Theda Skocpol [about why cap-and-trade failed in 2010](#), and it seemed like a lack of grassroots organizing was the major reason.

Tejada: Absolutely. And a lot of the national leaders in the environmental community agreed with that, although many didn't. A lot of these organizations, unfortunately, are still ignoring that lesson. And I hope that the environmental community will wake up and realize that they have to start putting their money where their mouth is, and putting their efforts and their resources and their time to environmental justice communities, and giving environmental justice leaders an equal place at the table.

e360: Once you've developed your grassroots coalition and determined what the community wants to work on, how do you go about changing the practices of established industries like shipping or petrochemical refining?

Tejada: I think the most valuable thing about Air Alliance Houston is that it creates relationships. I've always put a lot of importance on that. Your first option should not be to go to the ramparts and file a lawsuit or flame people in the press. You should start with diplomacy,

There are environmental justice communities everywhere you look in the United States."

you should start with relationship building, and you should really try to find common ground with the stakeholders of any issue — whether it's industry, local government, county or state government, regulators. You can get a lot more done, more

effectively and much quicker, if you start by reaching out and talking to folks about the issue, and try to understand their perspective, and try to communicate your own perspective, and the community's perspective.

e360: Is there a particular policy success with Air Alliance Houston that you're especially proud of?

Tejada: We first became involved in Galena Park because it was the worst area in the entire state of Texas for particulate matter. One of the big issues in Galena Park was that the major trucking route that goes right through the heart of that community had been completely destroyed by trucks. The trucks were struggling to get through the road, and it was causing a lot of diesel exhaust, and a lot of dust to be kicked up, and it was just a dangerous road. But it was also the main road for the community. It was a bad situation on a lot of levels.

We managed to scrape together \$9 million of funding to repave and reconstruct the road. And the new road has really helped reduce the particular matter problem at the edge of the community. But it's also meant that folks have a better and safer way to access their community, to get in and out — it's really improved their quality of life.

e360: There are also a number of significant disease clusters in the Houston area — for example, there's a serious cluster of childhood leukemia near the Houston Ship Channel caused by contaminated air. Have you tried to combat those disease clusters?

Tejada: That's been another one of our big successes. A number of studies have looked at cancer, or birth defects, or other problems in these toxic hotspots, and related them to environmental conditions. The [Texas Commission on Environmental Quality] had a program in

place to deal with toxic hotspots, and we worked with that agency to completely reform the program over the last 18 to 24 months. And it's a much stronger program today. That's not to say that it wasn't working before, but now we have a program that thoroughly and thoughtfully identifies the hotspots and then moves through a process to make sure the state is doing everything it can to reduce that toxic hotspot. We've tried to alleviate levels of air toxins like benzene, butadiene, or toluene — toxins produced by refineries, chemical plants, and transportation of chemicals.

e360: You mentioned you'll be using the tools that the EPA has developed to identify areas of priority. Do you have any sense yet of where in the country, besides the Gulf area, you'll be concentrating?

Tejada: No, and that's one of the challenges. You can't concentrate on one area to the exclusion of others. There are environmental justice communities across the entire country in urban areas, suburban areas, rural areas, on [Indian] reservations. There are environmental justice communities everywhere you look in the United States, and they all deserve equal treatment and consideration and effort from the government.

e360: Does the EPA have people focused on environmental justice on the ground in a lot of these places?

Tejada: Yes, each region has environmental justice staff. I've already been in contact with folks in environmental justice positions everywhere from Oregon to Florida. I even got a call from Hawaii... It's going to be interesting to learn more about all of these communities, to learn their unique aspects and also to figure out the similarities across environmental justice communities, whether they're in Puerto Rico or in Kansas.

POSTED ON 13 MAR 2013 IN

ABOUT THE AUTHOR

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From the Houston Business Journal

:http://www.bizjournals.com/houston/morning_call/2013/03/houston-among-top-cities-for-energy.html

Mar 13, 2013, 6:30am CDT

Houston among top cities for Energy Star-rated buildings



[Tim Monzingo](#)

Multimedia reporter- *Houston Business Journal*

[Email](#) | [Twitter](#)

The "Energy Capital of the World" again ranks among the top 10 cities with the most Energy Star-certified buildings — including one that's earned the certification more than any other building in the U.S., according to the **Environmental Protection Agency**.

Other cities to make the top 10 list include Los Angeles, Chicago, San Francisco and more, though the Dallas-Fort Worth area was the only other Texas metro on the top-25 list.

Click through the slideshow on the right to see the top 10 cities and the number of Energy Star-certified buildings in each.

"By the end of 2012, the more than 20,000 Energy Star certified buildings in cities across America have helped save more than \$2.7 billion in annual utility bills and prevent greenhouse gas emissions equal to emissions from the annual electricity use of more than two million homes," the EPA said in its March 12 statement.

If the top-10 ranking wasn't enough for Houston, one of its buildings also set a record among all Energy Star-certified buildings.

Phoenix Tower, at 3200 Southwest Freeway, received its 14th-consecutive Energy Star ranking, making it the only building in the country to do so that many times, according to the EPA.

"Commercial buildings that earn EPA's Energy Star must perform in the top 25 percent of similar buildings nationwide, as verified by a professional engineer or a registered architect," the EPA said in its statement. "Energy Star certified buildings use an average of 35 percent less energy and are responsible for 35 percent fewer greenhouse gas emissions than average buildings."

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Dallas-Fort Worth buildings ramp up ranking on energy saving list



By Steve Brown

stevebrown@dallasnews.com7:08 am on March 13, 2013 | [Permalink](#)

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When it comes to saving energy, Dallas-Fort Worth buildings are some of the best in the country, according to a new survey.

The D-FW area ranks as the city with the eighth largest number of Energy Star certified buildings, according to a new report from the U.S. Environmental Protection Agency.

The EPA found that 214 D-FW commercial buildings with 59 million square feet of space get the Energy Star rating. The environmental watchdogs estimated these properties saved \$47.3 million in costs last year because of their energy saving features.

"In 2012, more than 20,000 Energy Star certified buildings across America helped save more than \$2.7 billion in annual utility bills while preventing greenhouse gas emissions equal to emissions from the annual electricity use of more than two million homes," the EPA report said.

D-FW moved up in the annual ranking from 10th place in 2011.

Los Angeles was the top U.S. city for the number Energy Star rated buildings. Washington, D.C. and Chicago were next in line.

Portland, Ore., Kansas City and Albuquerque placed near the bottom of the list of cities with the most energy saving buildings.

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EPA official: Dialogue needed between Mossville, industries

By [Eric Cormier / American Press](#)

He has only been on the job since September 2012, but EPA Region 6 Administrator Ron Curry is familiar with Mossville.

Curry wants residents in the Calcasieu Parish hamlet to meet with industrial representatives in order to solve long standing

environmental complaints there.

“I plan to visit Mossville myself and try to see if problems can be worked on,” he said. “We will be in Mossville sometime

soon.”

Curry was appointed by President Barak Obama to oversee the Dallas-based District 6 Office that oversees Texas, New Mexico,

Oklahoma, Arkansas and Louisiana.

Prior to taking over, he worked as the

head of New Mexico’s Environmental Department under former Gov. Bill

Richardson’s administration

and as a public affairs specialist in the private sector. Curry

also owned a business for 10 years.

He visited Lake Charles on Tuesday and spoke at the Louisiana Oil and Gas Association’s 2013 annual meeting at L’Auberge Casino

Resort.

Curry stressed that environmental issues can only be solved when communities and industry have dialogue.

“I’d like to see more communication. Folks have to talk to each other to try and find solutions,” he said.

He said he understands the long and contentious history between local environmental advocates and industry representatives.

Curry believes the needs of both sides can be balanced for the betterment of the environment and economy.

EPA officials are watching developments

in the multi-billion industrial corridor situated along the Louisiana and Texas Gulf

coastlines. A large percentage of growth is due to the availability of natural gas that is used as feedstock in the petrochemical industry and as a power source.

“We want to try and stay ahead of the curve and be aware of the technology. It is important that we realize during this growth

the mistakes and concerns of the past and not repeat them,” Curry said.

During a question-and-answer session with Louisiana oil and gas representatives, Curry responded to concerns about the federal

government’s position on hydraulic fracturing.

A large portion of the mining industry approves of the technology. Hydraulic fracturing is leading miners to lower depths

under the earth and vast oil and gas reservoirs.

During the process, millions of gallons of water, sand and chemicals are pumped into rock, breaking free pockets of oil and

gas.

Many environmental activists claim the procedure could lead to contaminated drinking water.

“At the EPA, we will continue on a

daily basis to understand the ins and outs of fracking. We want to know

the effects and

benefits,” Curry said. “But there are no plans from EPA to do

anything but try to understand and make sure the procedure is

safe.”

News Date: 03/12/2013

Outlet Full Name: Las Cruces Sun-News - Online

News Text: LAS CRUCES — During Ground Water Awareness Week, through Saturday, the New Mexico Department of Health has joined the National Ground Water Association to remind 350,000 New Mexicans who get their drinking water from a private well that it is time to schedule an annual water well checkup.

"Wells can provide high-quality drinking water but with well ownership comes the responsibility of keeping the well in good working order," said Heidi Krapfl, Bureau Chief of the Department of Health's Environmental Health Epidemiology Bureau. "The best way to know if drinking water from private water well is safe to drink is by testing it."

The New Mexico Environmental Public Health Tracking program estimates that about 20 percent of New Mexicans get their household drinking water from private water wells. Since private water wells are not monitored or regulated for drinking water quality by the Environmental Protection Agency or the state, it's important for water well owners to maintain their well and periodically test the drinking water for contaminants.

Common water quality tests check for germs such as E. Coli and chemicals such as nitrates, arsenic, uranium, lead, and fluoride. The Environmental Health Tracking program recommends that well owners have their water tested every year for bacteria and nitrates and periodically for other chemicals and metals. Other reasons to test water quality include changes in the smell, taste or color of your water.

The Environmental

Public Health program recently launched a new resource where water well owners can receive tips about water testing, water treatment, learn about a free class for water well owners, and understand the potential health effects of drinking and cooking with water of poor quality. These resources are available at <https://nmtracking.org>

An annual checkup by a qualified water well contractor is good way to ensure problem-free service and quality water. NGWA suggests a water well check be done by a qualified water contractor and may include a flow test to determine system output, along with a check of the water level, pump motor performance, pressure tank and pressure switch contact, a well equipment inspection, and a drinking water quality test.

More suggestions for well water maintenance and good drinking water quality are available at https://nmtracking.org/en/enviro_n_exposure/water-qual/private-wells/well-resources/

News Date: 03/12/2013

Outlet Full Name: Las Cruces Sun-News - Online

News Text: Before you can bring trash to a landfill, a "cell" must be developed and lined to protect groundwater from any liquids that might leak out of the trash. In 1993, an EPA mandate went into effect, that going forward, landfills must be lined before they can accept trash.

It's an amazing sight - the creation and lining of a brand new "cell" at Corralitos Landfill.

Corralitos is the landfill where most of the trash from Las Cruces and Doña Ana County ends up. Five days a week, 20 to 25 semi-trucks of solid waste are shipped to Corralitos for disposal in the landfill. That's 500-600 tons of trash every week day.

Corralitos is located on a 600-acre parcel of land along I-10, about 15 miles west of Las Cruces, and surrounded by ranchland.

Driving past on the freeway, if you happen to glance over to the south, you see what looks like a sandhill. That's Corralitos Landfill, which contains 2 million tons (2,000,000 tons) of trash to date.

Corralitos was first opened in June 1995, and is perfectly sited to not only serve our population, but also protect groundwater - the most critical aspect of managing trash. The state of New Mexico requires that a landfill "cell" be at least 100 feet above the nearest groundwater; Corralitos is 600 feet from the nearest groundwater.

A landfill is not just a big hole in the ground, it is a highly engineered and planned disposal site that:

- 1) manages any liquids that drain down through the waste by means of a leachate collection system. Liquids include everything from rainwater to milk or bleach in thrown-away containers;

- 2) the landfill slopes are constructed over time at the perfect angle to best stabilize the tons of trash and daily cover (dirt that is brought in all day long to hold

the trash in place during blowing winds while suppressing odors from decomposing organics in the trash);

- 3) landfilling is the best, most cost-effective option for managing trash in our part of the country, with our population size.

Before any trash is brought in, a "cell" must be developed. The new cell at Corralitos is 10 acres in size.

Danita Boettner, Project Engineer and Quality Assurance manager, explained, "We only

develop and line a cell about every 5 years. Today we have 10 acres of base grade (highly compacted ground), topped with a light gray geo-synthetic clay liner as a secondary backup to prevent any migrating liquid. The black 60mil High-Density Polyethylene (HDPE) is an incredibly heavy-duty plastic liner that goes on top as the primary protection against leachate migration."

At the seams, the HDPE is melted together ("welded"), and the huge 10-acre liner is anchored in trenches along each side of the cell, to keep them from ever moving.

Finally, two feet of sand is placed on top of the 10-acre cell as a medium that is used in the leachate collection system. Liquids migrate through the sand to the piping system below. The sand also protects the liners from the heavy duty equipment used to crush, compact and compress the garbage, making the landfill space that contains our garbage go absolutely as far as possible.

If you think about it, almost everything you purchase, once it's useful life is spent, will end up being recycled or someday go in a landfill. Household hazardous waste and other infectious or toxic materials must be handled in a separate, more stringent way. But over the years, the management of solid waste has evolved into a highly engineered, highly organized way of managing the enormous amount of trash we all produce.

If you would like information on proper waste disposal and recycling, call the South Central Solid Waste Authority (SCSWA) at 575-528-3800 or visit the website at www.TheScrappyPages.com.

Oklahoma in a bruising battle with EPA

The Oklahoman Editorial | Published: March 12, 2013

Were it not for a few votes here and there at selected Ohio precincts, a red state attorney general might not have been in the purple state of Colorado on Wednesday to *personally* argue against an Environmental Protection Agency overreach.



Scott Pruitt



Article Gallery: Oklahoma in a bruising battle with EPA

But Ohio went blue in November. Barack Obama won another term. The EPA is being placed under a new administrator, one who may be more zealous than her predecessor.

So Oklahoma Attorney General Scott Pruitt made the trip to Denver to argue before the 10th U.S. Circuit Court of Appeals in a case pitting the EPA against the state of Oklahoma, the largest state electric utility and the people who pay the highest electric bills. This is the “regional haze” case stemming from a determination that visibility at wildlife refuges indicates the presence of pollution tied to coal-fired power plants.

The state and utilities offered a mitigation plan that would have gradually switched electricity generation to cleaner fuels. The EPA rejected the plan. It put the utilities on notice that they’d have to shutter the coal plants or install expensive scrubbers.

We had hoped for a reasonable resolution to the conflict, one that involved a more reasonable president and a more reasonable EPA. Instead we have the same unreasonable president appointing as EPA administrator an employee who’s been focused primarily on clean air.

Pruitt is focused on the right of the state to regulate public utilities. OG&E is focused on using the assets in which ratepayers and shareholders are heavily invested. Large industrial users are focused on keeping their electric bills at an affordable level.

The latter won't happen if the EPA prevails. Customers will pay more for power. *A lot more.* A Sierra Club spokeswoman said OG&E is trying to get "a free pass to pollute."

There are no free passes in this conflict. Customers certainly won't get one if the EPA gets its billion-dollar scrubbers.

A meeting of minds on air pollution?

Pat Sullivan, AP



In this Feb. 25, 2010 file photo, refineries and chemical plants release steam near the Houston ship channel. Texas and the U.S. Environmental Protection Agency are fighting over permitting and other bureaucratic issues, a battle that environmentalists, state regulators and the EPA agree puts human health and the environment at risk.

By Matthew Tresaugue
March 12, 2013

In August, after a court ruled in favor of Texas in its pitched fight with the Environmental Protection Agency, the state's top environmental regulator responded in a familiarly hostile fashion.

Hopefully, Bryan Shaw said, the decision to strike down one of the EPA's hallmark air-quality rules would lead the agency back to "scientifically based environmental protection" and "away from an agenda based on environmental activism."

Since the court ruling, the tone has turned conciliatory, with the Texas Commission on Environmental Quality and the EPA pledging cooperation after years of rhetorical sparring over the best way to regulate industrial air pollution.

The reason, officials and observers say, is an aggressive effort to reset the relationship by Ron Curry, the EPA's new administrator for a five-state region that includes Texas. President Barack Obama appointed the New Mexican to the Dallas-based post in September, replacing Al Armendariz, who resigned amid a furor over his comments about "crucifying" polluters.

The day after Obama won re-election, Curry traveled to Austin to meet individually with TCEQ's three commissioners, who are appointees of Gov. Rick Perry. Curry has spoken to Shaw about once a month, and the two have agreed to keep their disagreements out of press releases.

"We are not trying to scrub differences," Curry said. "But we are trying to lower the temperature and build a relationship where things get done."

Said Shaw: "We are talking and saying the right things about trying to find common ground."

But both men acknowledge the new dynamic will soon be tested as the EPA seeks stricter limits of smog-forming pollution and new rules for emissions of carbon dioxide and other gases linked to global warming, among other issues.

A rocky road

The relationship between the EPA and Texas has been rocky for years, and it had turned increasingly tense during Obama's first term and Perry's unsuccessful campaign for president. At one point, an attorney for industry said his clients felt like children in a custody fight between divorcing parents.

Under the Clean Air Act, the EPA writes the regulations, and the states enforce them. But Texas has disagreed with several new rules and filed lawsuits to block them, while the EPA found some TCEQ-issued air-pollution permits did not meet federal muster and took the unusual step of seizing the state's authority to issue permits for emissions of carbon dioxide and other heat-trapping gases.

Into this divide comes Curry, the first non-Texan to hold the EPA's top post in the region. Insiders said he could hardly be more different than Armendariz, a scientist who came to the job with a history of criticizing the TCEQ as soft on the industry it regulates. He joined the Sierra Club after his resignation, a move opponents said proved a bias against industry.

Curry worked in industry and as a city manager before serving eight years as New Mexico's environmental secretary under former Gov. Bill Richardson, a Democrat. His wife is a former Democratic state senator from Las Cruces, N.M.

Different approach

In October, Curry met with environmental regulators from across the five-state region at Dallas' Love Field airport. His message: I have been in your chairs, working for governors with agendas, and we are going to work with you.

"Curry is very different in approach and style than Armendariz," who came to the job energized by his research into Texas air pollution, said Tracy Hester, an assistant professor who leads the environment and energy program at the University of Houston Law Center. "He has made every effort not to be confrontational."

Said Larry Soward, interim director of Air Alliance Houston, an advocacy group: "Ron and Al probably support the same bottom line on the issues, but Ron is more of a diplomat and consensus builder."

But there are doubts the honeymoon will last. Obama has nominated Gina McCarthy, the EPA's air quality chief, to lead the agency. McCarthy shepherded some of its most contentious rules during the president's first term, including regulations curbing smog- and acid rain-forming emissions that the federal appeals court rejected in August at Texas' urging.

The TCEQ, meanwhile, has joined a new group of 17 state agencies that have squabbled with their federal counterparts over clean-air standards, particularly the push to regulate greenhouse gas emissions.

Unreasonable?

And the TCEQ, in the current issue of its monthly publication, raised concerns that the EPA's new standards for tiny airborne particles, or soot, are "unreasonably strict and unsupported by available scientific research." Houston would be in violation of the limit for the first time.

"It's the same old thing from TCEQ," said Soward, a former TCEQ commissioner. "If they don't agree with EPA, they question the science or the environmental benefit."

Even then, Soward said he is optimistic because the agencies are talking to each other.



Daily News

Senate's \$700 Million EPA Cut At Odds With House Bid To Maintain Funds

Posted: March 12, 2013

Senators have introduced a continuing resolution (CR) to fund EPA and other agencies through the end of fiscal year 2013 that would cut EPA's \$8.4 billion budget by \$700 million down to \$7.7 billion, at odds with the House-passed CR that would keep the agency's existing level of funding in place through the end of FY13 in September.

[The bipartisan Senate plan](#) introduced March 11 would mean further funding reductions for the agency on top of the budget sequestration order that took effect earlier this month. Under sequestration, several major EPA accounts are facing a combined \$472 million reduction that would bring overall agency funding down to roughly \$8 billion. If the Senate CR becomes law, the additional \$700 million in cuts would bring that level down to \$7.3 billion.

Under the Senate plan, four key EPA accounts would face significant reductions, for a total reduction in the agency's funding from the existing \$8.4 billion level down to \$7.7 billion, including a \$610 million cut to the \$4.19 billion state and tribal assistance grant (STAG) fund that helps states pay for the costs of implementing agency rules.

The Superfund account of \$1.218 billion would be cut \$38 million to \$1.18 billion. EPA's environmental programs and management account would drop \$46 million, from an originally enacted level of \$2.696 billion to \$2.65 billion. And the science and technology fund would be cut \$13.7 million, from \$799 million to \$785.3 million.

The cuts, part of an array of proposed reductions designed to keep overall discretionary spending under a \$1.043 trillion cap, contrast with the CR that the House approved in a 267-151 vote March 6, which would continue funding EPA at existing levels through the end of FY13 -- even though the Republican-led House in previous funding proposals has targeted agency funds that the Democratic-led Senate has opposed in competing measures.

The proposed Senate budget cuts could exacerbate concerns from some lawmakers, states and others who warned that the [sequestration funding reductions](#) would hinder EPA's ability to protect the environment.

While the Senate CR budget cuts are at odds with the lower chamber's CR, the Senate resolution does mirror the House CR's proposal to rescind \$35 million in unspent STAG fund -- including \$20 million from the state revolving fund -- and an additional \$15 million in unspent Superfund allocations. Both rescissions would apply to funds that were allocated in previous years' budgets but have yet to be spent by the states or tribes they were earmarked for.

"We're not happy about that cut, and we're not sure which years it's coming from. Given the delays we have with EPA getting the money out to the states, especially with the CR, it's not realistic for Congress to expect the states to be able to spend it right away," a state source says.

"The main thing we were tracking was the STAG funding, and it looks like once again that's the go-to place for cuts. Not only do we take a 5 percent cut from the sequester, but we have this cut on top of it," the source adds.

But the source says that given Congress' fast-tracking of the CR, it seems unlikely that states will be able to organize objections quickly enough to effect a change in the bill before it comes to a vote. "We probably won't be able to act that fast, but it sounds to me like it wouldn't matter even if we did," the source says.

The Senate CR comes as House Budget Committee Chairman Paul Ryan (R-WI) put forward March 12 Republicans' [FY14 budget resolution](#), which calls for \$2 billion in discretionary spending cuts from FY13, with such cuts increasing to \$18 billion in FY15 and as much as \$47 billion in FY23.

But the resolution does not address EPA funding specifically, calling only for the agency to stop any move toward a regulatory approach to cap-and-trade carbon controls in the absence of congressional action.

"In his last State of the Union address, the President warned Congress if it did not pass a cap-and-trade bill similar to the one that failed in 2009, he would regulate emissions via executive fiat. The EPA is poised to make good on the President's threat by abusing the powers granted in current law," the resolution says.

Funding Reductions

Potential impacts of the CR cuts, if they survive the process of reconciling House and Senate versions of the bills, are unclear. But in a Feb. 6 letter to House appropriators, Acting EPA Administrator Bob Perciasepe warned that sequestration cuts, then projected at \$700 million, would force the agency to cut programs that monitor water and air quality, scale back inspections of high-risk sites, reduce cleanup activities and harm many other programs.

During a March 12 floor speech to announce the CR, Senate Appropriations Committee Chairwoman Barbara Mikulski (D-MD) said the Senate had to cut spending to fit the CR under the budget committee's mandatory cap of \$1.043 trillion for overall discretionary funding. "It includes some very limited changes to fix pressing problems. . . . We don't have a bill that's what we would like to do, but we have a bill that [is] what we must do," she said.

Mikulski said on the Senate floor March 12 that the CR "makes reforms -- we actually get more value for the dollar," but did not address its impacts on EPA or environmental programs specifically.

A spokesman for Sen. Jack Reed (D-RI), chair of the appropriation committee's panel on interior, environment, and related agencies, which set the CR's funding level for EPA, did not immediately return calls for comment.

In a March 12 Statement of Administration Policy, the White House expresses support for the Senate version of the CR, saying it improves on the House bill by "strengthening funding for transportation infrastructure, manufacturing, research and development, early childhood programs, and housing programs."

The CR seems certain to pass Congress in some form ahead of a March 27 deadline to set funding levels for the remainder of FY13 before an existing CR expires. During her floor speech, Mikulski pledged the Senate will bring its bill to a vote by "the middle of the week. . . . If we do not pass our bill and then have an agreement between the House and the Senate that is signed by the president, we could face a government shutdown. Now, there is no will on either side of this institution that wants to see that. We are absolutely committed to no shutdown." -- *David LaRoss* (dlaross@iwpress.com)

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1. WATER:

Supreme Court wades into bitter Texas-Okla. feud ahead of expected 'flood of litigation'

Jeremy P. Jacobs, E&E reporter

Published: Tuesday, March 12, 2013

FORT WORTH, Texas -- Housing developments are all that grow these days on a parched brown landscape that sprawls out here in all directions.

Booming population growth and oil and gas development are wringing the last drops of water out of an area in the grips of drought.

But it's a different picture about 100 miles up the highway in southeast Oklahoma. From a helicopter, about 300 feet up, you see lush areas the size of football fields with glistening puddles saturated by the nearby Kiamichi River.

Dan Buhman, an engineer planning north Texas' water supply for the next 50 years, looked down at the green fields and laughed.



Fields near the Kiamichi River appear saturated with water, a stark contrast to North Texas's landscape. Photo by Jeremy J. Jacobs.

"That's incredible!" he said as the helicopter circled a field. "I don't see people. There is just nobody here. The entire Kiamichi basin is the same. Look for a big town on it. There are none."

The Dallas-Fort Worth Metroplex maintains it has a right to that water under the 1980 Red River Compact among Texas, Oklahoma, Louisiana and Arkansas. Until now, no state has sought to draw water from another using the compact. They haven't needed it.

Oklahoma disagrees and has circled its wagons around its water. The more-than-10-year feud has become as deeply ingrained as football rivalries between the two states,

and Oklahoma has enacted laws that effectively ban the sale of water to Texas for fear the Lone Star State will suck it dry.

Next month, Texas' challenge to those laws will be heard at the Supreme Court in *Tarrant Regional Water District v. Herrmann*, a case that could have far-reaching implications for precious water resources in the West. Experts say that if the court upholds Oklahoma's laws, it has the potential to undo the more than 25 water compacts on which Western states rely ([see related story](#)).

The compact language at the heart of the dispute, said attorney Kirsten Nathanson of Crowell & Moring, is of "broad importance."

"Similar language appears in many of the interstate compacts in this country," said Nathanson, who's not directly involved in the case. "It would allow states to have statutes similar to Oklahoma's, and that would cause all kinds of disruption in the implementation of these compacts."

Bottom line, she said: The court could throw the current water crisis into overdrive.

Population growth outpaces infrastructure

A California native, Buhman, 37, is able to view Texas' water challenges from a slightly more objective perspective than the Texans who employ him. Texans' animosity toward Oklahoma runs deep.

Buhman sees demographics defining the dispute. The Dallas-Forth Worth Metroplex has more than 6.5 million residents; there are fewer than 4 million in all of Oklahoma.

Fort Worth, he said, is the fastest-growing U.S. city with more than 500,000 people, and it's the country's biggest that is not on a seaport.

"These cities are being built so fast that they can't keep up with it," Buhman said.

Consequently, north Texas must double its water supply by 2050.

"Our watersheds are tapped out from a future water availability perspective," Jody Puckett, director of Dallas Water Utilities, said over a breakfast of pastries and pigs in a blanket.



Dan Buhman, an engineer, consults for Tarrant Regional Water District. He is charged with planning the area's water supply for the next 50 years. Photo by Jeremy J. Jacobs.

Puckett added that the metroplex has looked to develop other water sources within the state's borders. Years ago, it planned to build another lake, Fastrill, on east Texas' Neches River, but that plan was scuttled by the U.S. Fish and Wildlife Service when it obtained a conservation easement in the middle of the proposed lake's footprint. (Texas has no natural lakes; all have been built by the Army Corps of Engineers and the state since the drought of 1950.)

The area has enough water to last through 2030, said Jim Oliver of the Tarrant district. But that's sooner than it seems: It takes five years to build a lake -- after going 10 to 15 years in the permitting process.

"We've got to have something on the books here pretty quick," he said, looking to Buhman.

"No pressure," Buhman joked.

'They could not get over that hump'

There are many reasons the water in southeast Oklahoma appeals to Texas.

For one, it's only 125 miles away and less salty than western water, so it would require less treatment. Because it's to the east, it is less susceptible to drought and it is uphill, so it would require less energy to pump into the metroplex.

And there are relatively few people in southeast Oklahoma.



The Kiamichi River flows into the larger Red River in southeast Oklahoma. Photo by Jeremy J. Jacobs.

"There is more water than they will ever use up there," Buhman said. "You could build several New York Cities in southeastern Oklahoma and still never even touch the true amount of water up there."

A little more than a decade ago, the district was in negotiations with Oklahoma to buy the water outright, thinking it would be a simple transaction: Oklahoma needed to upgrade its water infrastructure, and Texas was flush with cash from oil and natural gas development.

But the talks broke down, as Oklahoma politicians feared ramifications from cutting deals with Texas to give up its natural resources.

"It was just emotional," said Linda Christie of the Tarrant district. "They could not get over that hump."

The issue lay dormant for several years until the district in 2007 filed a lawsuit seeking roughly 130 billion gallons of water from the Red River basin. The district argued it has a right to that water under the Red River Compact, which it says expressly allocates to covered states 25 percent of the water in the basin, regardless of state boundaries.

If Texas tapped all the relevant Red River tributaries within Texas, the district argued, it could get only 17 percent of the available water, so the intent of the compact was to supersede state lines.

Specifically, the district is seeking to obtain permits from the Oklahoma Water Resources Board to build a dam, pumping station and pipeline on the Kiamichi River just above where it meets the Red River, which separates southern Oklahoma from Texas. It has also sought groundwater from private property owners and Native American tribes in the state.

Texas has lost multiple times in court, and after every defeat Oklahoma politicians became more emboldened. After a five-year moratorium on exporting water expired in 2009, the state Legislature passed measures that would require legislative approval of any diversion of water out of the state -- effectively prohibiting it.

In the case before the Supreme Court, the Tarrant district is contending that those laws violate the Constitution's Commerce Clause because Texas is treated differently from in-state entities when trying to get a permit for the water. The compact, which was ratified by Congress in 1980, should pre-empt those laws, the district says.

The Denver-based 10th U.S. Circuit Court of Appeals disagreed, in another setback for Texas. In September 2011, the court ruled that although the compact governs regional water allocation, it also gives states considerable discretion over how they regulate and apportion water. Consequently, the ruling says, Oklahoma's laws, which protect its authority over allocating water permits for sources within its state boundaries, were sound ([Greenwire](#), Sept. 8, 2011).

"The Compact apportions water among the four compacting states," Judge Scott Matheson wrote. "It also authorizes the states to regulate the use of apportioned water."

He added that the "broad language" of the compact "inoculates the Oklahoma statutes" from a Commerce Clause challenge.

But the Tarrant district maintains the court relied on the wrong parts of the compact and didn't properly address the pre-emption issue.

"These compacts were really the states negotiating what's fair and an allocation of this resource," Christie said. "Our concern is when an appellate court can come in and read a compact differently from the intent it was entered into; it creates chaos."

The Obama administration agrees with the Tarrant district, in part. Solicitor General Donald Verrilli urged the Supreme Court to hear the case, largely because the 10th Circuit decision poses a significant problem for Texas' rapidly growing population.

In court documents, Verrilli wrote that the compact doesn't apply to state lines, and the 10th Circuit "improperly" applied a "presumption of pre-emption" in ruling that the compact granted Oklahoma the authority for its laws.

"The better interpretation," he wrote, "is that Oklahoma may not categorically foreclose Texas from diverting water."

Every state for itself

Oklahoma state Sen. Jerry Ellis doesn't see it that way.

Ellis, a member of the state's Democratic leadership, represents the southeast corner of Oklahoma and has forged his political identity largely by denying Texas any of the state's water. One of his campaign bumper stickers reads, "Don't Sell Oklahoma's Water."

He has introduced several pieces of legislation that would make it harder for Texas to buy water, including one that would have required any transaction to be approved by Oklahoma voters in a ballot referendum. The bill never got a vote.

Ellis contends that Texas doesn't want the water for residential use but, rather, for natural gas development.

It takes millions of gallons of water to hydraulically fracture, or frack, one natural gas well, he noted in an interview, and there are more than 16,000 rigs in Fort Worth alone on the Barnett Shale. Moreover, recent studies have found that water use for fracking in Texas has doubled in recent years and is expected to continue to rise.

Instead of its relentless pursuit of Oklahoma's water, he said, Texas would be better served by developing infrastructure to use the Gulf of Mexico's water.

"Texas needs to get rid of the lawyers and lobbyists; they spend millions on them," Ellis said through a thick drawl. "It needs to take that money that they are using for lawyers and lobbyists and build desalination plants on the Gulf."

He added: "Texas needs to take care of itself and let us take care of ourselves."

Oklahoma voters appear to be on Ellis' side. Polls last year showed that two-thirds of voters oppose selling water out of the state.



North Texas development now extends nearly to the Oklahoma border.
Photo by Jeremy J. Jacobs.

And Ellis is confident that the law is on his side because Oklahoma has won in court three times.

He contends that if Texas were successful at the Supreme Court, it would change water quality farther down the Red River.

"If you take it out, it could eventually affect the permits for southwest Arkansas irrigation," he said. "If they rule for Texas, they are going to open up a flood of litigation downstream."

But the Supreme Court case comes as Oklahoma is facing other water issues, and there is some sense that mind-sets like Ellis' may be shifting.

Oklahoma City, for example, is currently tied up in litigation with local tribes over rights to some water in the state's lakes after Oklahoma nearly defaulted on millions of dollars owed to the federal government.

That has reminded some politicians -- particularly some fiscally minded Republican state legislators -- of how much money Oklahoma would gain by selling water to Texas.

"The needle has moved," said Oliver of the Tarrant district. "When we first went up there in 2007, it was not 'No!' but 'Hell, no!' That's changed."

Further, former Oklahoma Gov. Frank Keating (R) was close to negotiating an agreement to sell water to Texas during his tenure. Since he left office, he has continued to say it would make sense for Oklahoma to sell its water to Texas under the right circumstances, according to media reports. One of his proposals would give Oklahoma first and second crack at using its water if it needs it, such as during a drought. If the state's water needs are met, Oklahoma could sell to any entity that wants to buy it.

In the meantime, however, Texas' water districts are still looking for other options -- both legal and otherwise. The state has asked the Supreme Court to hear a challenge to another water contract, the Rio Grande Compact, alleging that New Mexico is improperly diverting water that is supposed to flow into Texas.

They are also looking to other sources within the state. A new reservoir, the Marvin Nichols, has been proposed, and officials are also looking at ways to tap into east Texas' Toledo Bend lake. Neither of those options is preferred over Oklahoma water, though, because either they are expensive or they pose other significant challenges.

The Marvin Nichols Reservoir would cost \$3.3 billion to build and require permits to flood more than 70,000 acres, and that is not a sure bet with federal regulators and environmentalists.

Moreover, Toledo Bend is more than 200 miles from Dallas, downhill. Using it, said Puckett, Dallas' water utilities director, could increase the cost to consumers as much as four times.

Future water resources for the region weigh heavily on Puckett, and uncertainty strikes fear.

"If there is something that keeps me awake at night, it's that piece," she said. "What if we run out of options? I don't know. What's next, the Gulf of Mexico?"

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11. WATER:

Stakes high as Supreme Court weighs intervention in N.M.-Texas dispute

April Reese, E&E reporter

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SANTA FE, N.M. -- By the time the Rio Grande reaches the New Mexico-Texas state line, it's more puddle than river.

Texas blames groundwater pumping in New Mexico for the Rio Grande's sorry condition and has asked the U.S. Supreme Court to intervene and force New Mexico to send more water downstream.

The Lone Star State says its neighbor is taking more water than it's allowed under the Rio Grande Compact, which divides water among Colorado, New Mexico and Texas. The Supreme Court will decide whether it will hear Texas' case in the coming weeks.

New Mexico farmers say that if the court takes the case and rules in Texas' favor, their fields could wither, and with them, New Mexico's agricultural economy. Farmers on both sides of the state line are dealing with one of the worst droughts in history.

"A number of farmers depend on pumping water from the Rio Grande, not only near El Paso but all the way down the river," which eventually forms part of the U.S.-Mexico border before flowing into the Gulf of Mexico, said Regan Beck, assistant general counsel for public policy for the Texas Farm Bureau. "Their operations are certainly in jeopardy, since they can't pump water."

Historically, under the Rio Grande Compact, 57 percent of the water supply below Elephant Butte Reservoir in southern New Mexico has been delivered to New Mexicans and 43 percent has been delivered to Texas.

But because of the drought, the federal Bureau of Reclamation, which manages Elephant Butte Reservoir and stores water to meet compact obligations, has decided against releasing water for farmers in southern New Mexico, leaving them dependent on groundwater.

"Texas winning the lawsuit in its entirety as is would be a death knell for agriculture in southern New Mexico," said Matt Rush of the New Mexico Farm and Livestock Bureau in Las Cruces. "We're amidst one of the greatest droughts that we've ever had, and we're without any water from the river."

The only thing keeping southern New Mexico's pecan plantations alive is groundwater pumping, he said, and if farmers are told to shut off their pumps so New Mexico can send more water to Texas, they will be left with no water at all.

"When you're dealing with pecan trees, which are a permanent, year-round crop, if you go without water for a significant amount of time, they're going to die," he said.

New Mexico is the second-largest producer of pecans in the United States, he added.

Just how much groundwater pumping in the lower Rio Grande has affected the river's flows is unknown, however. Texas didn't specify in its lawsuit how much water New Mexico is withholding but said it was enough to irrigate thousands of acres of farmland. The water supply for the city of El Paso, half of which comes from the Rio Grande, is also at risk, according to the suit.

One thing is clear: Farmers in New Mexico have increased groundwater pumping in recent years. New Mexico State Engineer Scott Verhines warned last year that groundwater use had drastically increased as Rio Grande flows shrank.

Water 'rustling'

This isn't the first time the two states have tussled over the Rio Grande.

Under a 2008 agreement between Reclamation and irrigation districts in both states, New Mexico agreed to send more Rio Grande water to Texas to compensate for groundwater pumping. But New Mexico Attorney General Gary King (D) didn't like the deal, and in 2011 the state filed suit over it in federal court, saying Texas was getting too much water under the agreement and that it would hurt New Mexico agriculture to the tune of \$183 million.

Texas saw that move as an attempt to circumvent the compact and decided to lob its own complaint "to protect its rights to the water legally apportioned to it," according to a statement from the Texas Commission on Environmental Quality.

King shot back, saying in a statement that Texas is "trying to rustle New Mexico's water and using a lawsuit to extort an agreement that would only benefit Texas while destroying water resources for hundreds of thousands of New Mexicans."

Some say the Texas suit is retaliation for New Mexico's recent legal action.

"In my opinion, I think this is a political issue more than anything else," Rush said, adding he doesn't think groundwater pumping in southern New Mexico is affecting Texas water deliveries.

Water disputes between the two states go back almost a century. A similar fracas over the Pecos River in eastern New Mexico and west Texas ended with the Lone Star State receiving more water. Water managers bought up water rights from farmers to comply with a court decision in favor of Texas and send more water downstream.

Farming interests in New Mexico are fearful that the same thing will happen in the Rio Grande Basin, with dire consequences for agriculture there.

"In these compact disputes, the lower state always has the upper hand," Rush said.

But regardless of how the legal battle turns out, the larger issue of how to find enough water to sustain some of the most valuable farmland in the country likely will remain elusive.

The Texas-New Mexico water war could be a harbinger of things to come, not only in the Southwest but throughout the West, as water managers struggle to keep irrigation canals full and taps flowing amid a changing climate and more frequent droughts.

"We haven't had this kind of a drought ever before," Rush said. "We thought the year before last was the worst we ever had, but this one is worse. And by all accounts, next year will be just as bad."

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